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COMMISSION ON HUMAN RIGHTS

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SUMMARY RECORD OF THE 38TH MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 24 February 1993, at 7 p.m.

Chairman: Mr. BROTODININGRAT (Indonesia)

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(a) Torture and other cruel, inhuman or degrading treatment or punishment;

(b) Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(c) Question of enforced or involuntary disappearances;

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The meeting was called to order at 7.15 p.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (agenda item 10) (continued)

(E/CN.4/1993/4, 20-22, 23 and Add.1-2, 24, 25 and Add.1, 26-28 and 86; E/CN.4/1993/NGO/7, 9-10, 18-20 and 22; E/CN.4/1992/17 and Add.1, 18 and Add.1, 20; E/CN.4/Sub.2/1992/9 and Add.1, 17, 19, 22, 23/Rev.1, 24 and Add.1-3; A/47/662; A/RES/47/109)

1. Ms. PARKER (International Educational Development, Inc.) said that torture inflicted on protected persons, including prisoners of war, in the course of armed conflict was a war crime deserving of the Commission's attention. Her organization was ready to make available to the Commission testimony prepared by two former prisoners of war from Guatemala, Jaime Adalberto Augustín Recinos and Santiago Cabrera. Their testimony included the names and ranks of members of Guatemala's armed forces who had tortured them and others and carried out summary executions, the names of the commanding officers, and the locations of clandestine jails. They also had pertinent information regarding the death of the Indian Commander Everardo. Everardo was alleged by the Guatemalan Government to have been killed in combat on 12 March 1992. Since that date, however, witnesses had twice seen him being tortured by the military; and the Attorney General for Human Rights had been forbidden to carry out an examination of his corpse.

2. Rape was both a form of slavery, a form of arbitrary detention and a form of torture. When carried out in the course of armed conflict it was also a war crime, as had been accepted by international law since as early as the Lieber Code of 1863. Between 1933 and 1945 Japan had enslaved approximately 200,000 girls and women and subjected them to repeated rape, other forms of torture and starvation. Approximately 150,000 had died in captivity. While applauding current moves to address rape and other crimes in the former Yugoslavia, her organization could not accept inaction regarding Japan's Second World War victims, whose sufferings were the result of a calculated governmental policy. Virtually none of those victims, whether sex slaves, forced labourers, allied prisoners of war or civilian detainees, had yet received redress for acts identified as war crimes, as required by article 3 of the Hague Convention. Victims of Japan's war crimes and victims in the former Yugoslavia must thus all receive adequate compensation.

3. The statement regarding Sri Lanka made by the Commission at its forty-eighth session and the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1993/25/Add.1) were certainly welcome.

However, the report illustrated the difficulty of addressing a single issue in a country engulfed in armed conflict, and supported her organization's contention, often reiterated before the Commission, that the situation in Sri Lanka justified the appointment of a special rapporteur.

4. It was regrettable that the report of the Special Rapporteur on torture (E/CN.4/1993/26) referred to only one case in Sri Lanka, albeit one presented by her own organization. International Educational Development could provide highly credible evidence of other cases of torture in Sri Lanka, and hoped that reports in subsequent years would accurately reflect the numbers of complaints.

5. Detention of Tamils, both in Sri Lanka and in India, continued to be a major problem. The detention of Sathasivam Krishnakumar, Liberation Tigers of Tamil Eelam leader, and his vessel in international waters by the Government of India, an incident that had ended with the death of Mr. Krishnakumar and some of his companions and the detention of others in India, had been condemned as an act of piracy. Her organization urged the Commission to condemn that act, and to ask the Government of India to release the nine detainees.

6. Finally, she welcomed the decision by the Working Group on Detention regarding the cases of Daw Aung San Sui Kyi and U Nu in Myanmar. The importance of incorporating humanitarian law into issues relating to detention was underscored by that case and the Working Group's decision. The Commission must now insist that all political prisoners in Myanmar were released.

7. Ms. de VLAMING (World University Service) said that in Peru, 16 students from the Universidad Nacional del Centro had been victims of extrajudicial killings and another 11 had disappeared since August 1992, following the conducting of a census by the armed forces at the university campus. Peruvian and international human rights organizations had also reported on the torture and disappearances of students from the Universidad de Educación Enrique Guzman y Valle in Lima. Her own organization had reported on the killings of university teachers in various universities in Peru. The total number of reported killings of university teachers since the summer of 1992 was now eight. Academics and administrators of universities in Peru had requested that the armed forces should be withdrawn and that the autonomy of universities should be respected, but thus far the Government had ignored that request. Given that violations of the human rights of students and academics constituted only part of the human rights tragedy in Peru, World University Service called upon the Commission to give the human rights situation in Peru the attention it deserved.

8. The autonomy of the university in Haiti had been seriously infringed when the Ministry of Education had decided to replace members of the Administrative Councils of schools and universities in November 1992. Students of the Faculty of Agronomy protesting against the decision had been beaten, and at least 12 had been arrested by the military. Widespread fears had been expressed for their safety and physical well-being.

9. In Venezuela, 17 students had been arrested during a raid on the Central University in November 1992. Fears that they were being tortured were based on earlier reports of the serious maltreatment of detainees, including a

number of students, by the security forces. In February 1992 at least four students had been victims of extrajudicial executions in Valencia, and in November 1992 one student from the Simón Bolívar University had been shot by members of the metropolitan police. No one responsible for the killings had thus far been brought to justice.

10. In Ethiopia, students and staff from the University of Addis Ababa had been killed while participating in peaceful demonstrations on 4 January 1993. Security forces had apparently opened fire without warning, killing at least seven students and wounding many more. A large number had been arrested, and several were still being held in detention without trial.

11. Her organization wished to join those who, over the years, had repeatedly expressed concern about the fate of Lobsang Tenzin, a student at the Tibet University in Lhasa, who had been arrested in March 1988, tortured, and sentenced to death in January 1989. Secret executions were also alleged to take place in Tibetan prisons. The Commission should call upon the Chinese authorities to suspend the death sentence against Lobsang Tenzin, to reopen his case, and to conduct a fair trial in accordance with internationally accepted standards.

12. As one of the founder members of the non-governmental organizations' Coalition Against Impunity, her organization had pointed to the structural dimension of impunity in Guatemala, where all crimes, both ordinary and political, committed by members of the armed forces were judged in military tribunals, and very seldom punished. The fact that the Government of Guatemala had refused to sign the global agreement on human rights with Unidad Revolucionaria Nacional Guatemalteca (URNG) was an indication that there was still great pressure not to prosecute perpetrators of human rights abuses. The recent rejection by President Serrano of URNG proposals requesting that officers guilty of human rights violations should be prosecuted was another discouraging sign in that regard. In El Salvador, too, officers who should have been dismissed for committing gross violations of human rights still retained their positions as a way of enjoying impunity, in defiance of the agreements reached between the Government and FMLN. The military regimes of El Salvador and Guatemala were among the most repressive to have figured on the Commission's agenda in the past 10 years; and to consider either country under agenda item 21 would be tantamount to granting impunity to violators of human rights, and, as Rigoberta Menchu had stated before the Commission a few days previously, a terrible mistake.

13. Ms. BRIDEL (International Association of Democratic Lawyers), speaking on agenda item 10 (a), once again drew attention to the current plight of women in the Islamic Republic of Iran.

14. Using the pretexts of the "struggle against invasion by Western culture" and the "struggle to secure the wearing of the veil in accordance with Islamic law", fundamentalists had taken to the streets in a number of Iranian cities, attacking women and daubing their faces with black paint. Several hundred women had been arrested. Women were frequently sentenced to between 30 and 70 strokes of the lash, and flogged publicly without any form of judicial supervision. Women had also been forbidden to participate in the Barcelona Olympic Games: a form of apartheid to which the International Olympic Committee had lent its official approval.

15. In the summer of 1992 several hundred females, including girls under the age of 10 and pregnant women, had been arrested in Tehran and brutally assaulted in public. Many had been condemned to be flogged. Their families had been compelled to pay heavy fines in order to secure their liberty. Murders of young women by paramilitary groups were disregarded by the authorities.

16. The situation of Iranian women was deteriorating daily. Women were regarded as incompetent to give evidence, and a woman's right of inheritance was only half that of a man. Women could legally be married at 9 years of age, were not permitted to have custody of their children, and were the slaves of their husbands. Women detained for being "improperly veiled" were systematically raped and tortured, and often died after being subjected to as many as 74 lashes. Twelve hundred women accused of adultery had been stoned to death, the sentences being passed in the absence of lawyers and with no regard for the principle that a person was innocent until proved guilty.

17. The fundamentalist system was an evil that, like apartheid, must be attacked at its roots. Her organization thus joined the European Parliament in calling on Member States of the European Community to submit a draft resolution to the General Assembly condemning the unjust and cruel repression of Iranian women, and for the authorities responsible for such crimes to be punished.

18. Her organization had several times denounced the sentencing and imprisonment of Rim Soo Gyung, a student from the Republic of Korea, and of Moon Kyu Hyun, a Catholic priest, for attending a youth festival in the Democratic People's Republic of Korea. Following the persistent urging of various human rights organizations, Rim Soo Gyung had been conditionally released on 24 December 1992. Moon Kyu Hyun was still in detention, but efforts to secure his release continued. Her organization proposed to submit to the Centre for Human Rights a report on conditions of detention of opponents of the regime in the Republic of Korea, a country where violations of human rights and cruel, inhuman and degrading treatment were only too common.

19. Ms. BALAN-SYCIP (World Student Christian Federation) took issue with the claim made by the Government of the Philippines that the human rights situation in that country had improved, and that it was giving top priority to security and the peace process by granting an amnesty and repealing the anti-subversion act. In actual fact, human rights continued to be violated with impunity in the Philippines. Talk of an amnesty was contradicted by the arrest of a number of members of non-governmental organizations on charges of subversion. A total of 938 persons had been arrested on such charges in 1992. When President Ramos took power, about 600 political prisoners had been in jail; with the introduction of the amnesty programme, more than 500 of them were still in prison. Claims that more than 4,500 people had been granted amnesty were merely propaganda, since most of those people were evacuees and residents of militarized areas who had been forced to pose as rebels. If it was sincere in its amnesty and peace programme, the Philippine Government should unconditionally release all political detainees forthwith.

20. While the repeal of Republic Act 1700, known as the anti-subversion act, was welcome, other repressive laws existed, and most political prisoners were charged with criminal offences such as illegal possession of fire-arms, rebellion and sedition. The Government had criminalized political violations, denying detainees the right to bail and placing them in the category of common criminals, so as to be able to claim that there were no longer any political prisoners in the Philippines. Her organization feared that the recently reintroduced death penalty would now be used to deter those wishing to voice opposition to government policies. What few measures the Government had taken had not been effective in bringing violators to justice; nor had it addressed the problem of compensating and rehabilitating victims. Furthermore, President Ramos had issued an executive act providing funds for the victims of disappearances; however, the Philippine Commission on Human Rights (PCHR) had effectively denied the victims' relatives access to those funds.

21 The Philippine Government had still to implement the series of recommendations made by the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on torture during their visit to the Philippines. She drew specific attention to the recommendations concerning the disbanding of the Civilian Armed Force Geographical Units; the fight against "red labelling" of opponents; facilitation of the search for missing persons; a thorough overhaul of the law and practice of habeas corpus; measures to ensure that visits by lawyers and doctors should be conducted immediately and regularly without harassment and hindrances; and legislative measures providing victims of human rights violations with adequate compensation.

22. Impunity remained a major problem in the Philippines, with soldiers accused of human rights violations being merely transferred, and at times even promoted. Proof that the Government was addressing the problem lay not in the number of seminars conducted, but in the number of government agents convicted for committing human rights violations. The Philippine Government should also heed the recommendation of the Working Group on Enforced or Involuntary Disappearances that the PCHR should review its methods of work, concerning itself with violations of human rights by government forces, and extending its protection to ordinary people victimized by State agents.

23. In conclusion, her organization once again called upon the Commission to urge the Philippine Government to implement the recommendations of the thematic special rapporteurs and the working groups and the provisions of the covenants to which it had subscribed.

24. Mr. ARNOTT (World Conference on Religion and Peace) said that since September 1988, the Myanmar State Law and Order Restoration Council (SLORC) had issued a series of martial law decrees allowing the suppression of a number of non-derogable rights. In addition, it had restricted the few freedoms left by the previous regime, abolished most government institutions, banned the outdoor assembly of five or more people, further restricted publications, and subordinated local administration to military supervision and control. Since the imposition of martial law, the Myanmar military had grown considerably in numbers and weaponry and consolidated its domination over the civil, political, social, economic and cultural spheres.

25. According to unofficial estimates, army gunfire on peaceful pro-democracy demonstrators had killed between 3,000 and 10,000 people in 1988. Since then, most reports of extrajudicial killings related to the treatment of porters used by the army as human mine-sweepers and as shields in combat. They documented executions or abandonment without food of civilians pressed into forced labour. Substantial reports of killings of Muslims had also been received from Arakan. Amnesty International, other human rights monitoring organizations and the United States Department of State documented the various techniques of torture employed in Myanmar. Myanmar security forces routinely tortured prisoners throughout the country.

26. Since its establishment, SLORC had consistently emphasized ethnic distinctions, making citizenship rights conditional upon ancestry and grading people into three separate, unequal classes of citizen according to their ethnic origin. The exclusion of non-Burmans from crucial jobs and the use of racist criteria in the allocation and distribution of identity cards greatly exacerbated social and political tensions. There was no automatic or guaranteed right of citizenship, since ancestry had to be proved as far back as the early nineteenth century. Recently, Muslims who had been able to prove their ancestral ties had had their papers confiscated.

27. The flow of refugees had increased dramatically since the introduction of martial law. Between 1988 and 1992, more than 100,000 villagers had fled to neighbouring countries; and, in a mass exodus that had begun in 1990 but accelerated towards the end of 1991, up to 300,000 Muslims had escaped to Bangladesh, fleeing the policy of ethnic cleansing pursued by the Myanmar army. Muslims had been forcibly evicted from their homes, arbitrarily detained, tortured and summarily executed. Forced removals were another common practice, already addressed by his organization in its statement under agenda item 7.

28. Martial law also prevented the enjoyment of economic, social and cultural rights, thereby disregarding the recommendations made by the Special Rapporteur in his last two reports. As a result of the failure of the State to provide for the survival, protection and development needs of its people, and of the militarization of virtually every aspect of life in Myanmar, the country had one of the worst levels of human suffering in the world, with 16.7 million of its estimated 42 million population living below the poverty line. That situation was likely to continue if SLORC succeeded in its attempt to prolong military rule indefinitely. Its avowed aim of ensuring the leading role of the armed forces in the nation's politics was hardly what the people of Myanmar had chosen when, in 1990, they had elected a civilian parliament by an overwhelming majority.

29. Ms. PERREGAUX (Centre Europe-Tiers Monde) began by drawing the Commission's attention to document E/CN.4/1993/NGO/22, which contained excerpts from the first public statement by the European Committee for the Prevention of Torture (CPT), according to which torture was systematically practised in places of detention in Turkey. In view of their source, her organization supposed that the Turkish delegation would be unable to deny those allegations, as was its usual practice when responding to allegations made by non-governmental organizations.

30. Her organization was yet again compelled to raise the question of violations of human rights in Morocco and Western Sahara. Detention centres like the notorious Tazmamart were scattered throughout Morocco; conditions in the centres were atrocious, detainees who had been released did not dare to speak of their experiences or request reparation, for fear of reprisals; and impunity was in any case the rule in Morocco. In collaboration with the organizations Association de défense des droits de l'homme au Maroc and Association des familles de disparus sahraouis, her organization wished to submit the personal testimony of three former detainees from the Qal'at M'gouna camp.

31. Mr. NADRANI (Centre Europe-Tiers Monde) said that he had been abducted by government security forces in 1976 and taken to a secret place of detention, where he had been tortured and kept handcuffed under 24-hour surveillance for almost 16 months before being transferred to the camp at Agdz, in which prisoners were subjected to degrading and humiliating treatment, were plagued by vermin, and often died of diseases brought on by malnutrition. In 1980 he had been transferred to Qal'at M'gouna, tortured for one month, then kept in solitary confinement and in darkness for a further 18 months. He had been released only in 1984. During the eight years of his detention he had never been charged or tried, and on his release he had been able to ascertain that there was no entry under his name in the police records.

32. Mr. LAHSEN (Centre Europe-Tiers Monde) said that he had been abducted in 1981 and had subsequently spent 10 years in Moroccan prison camps. He too had been detained at Agdz and Qal'at M'gouna, and had at one time occupied the cell next to Mr. Nadrani's. A Saharan, he had been accused of sympathizing with the POLISARIO Front, and had signed a false confession under torture. He, too, had never been charged or tried. In 1986 he had been involved in an abortive hunger strike that had been suppressed by the authorities. Since their release, he and his fellow prisoners had continued to be harassed, kept under surveillance, threatened, denied freedom of movement and forbidden to communicate with foreigners; some had since been rearrested. He himself had found his way to a Saharan refugee camp, from where, after recuperating, he had travelled on to Geneva in order to testify. Other former fellow prisoners, still effectively unable to leave Morocco or occupied Western Sahara, had been less fortunate than himself. He called on the Commission to appoint an international committee of inquiry to visit the camps. Those responsible for those atrocities should be tried for crimes against humanity.

33. Mr. SIDI BALLA (Centre Europe-Tiers Monde), also a Saharan, said that as a child he had been deeply marked by the death of his baby brother, who had died after spending 18 months in captivity with their mother. In 1987, at the age of 17, he had been arrested while trying to enlist in the POLISARIO Front, tortured, and sent to various detention centres, in one of which the prisoners had been kept in chains and denied sanitary facilities for three months. In 1990 they had been heartened to learn that certain non-governmental organizations were taking an interest in their case. On his release, he had managed, despite considerable pressure, to reach a Saharan refugee camp, where he had begun to work for the Association des familles de disparus sahraouis.

34. If any men, women or children detained in the Moroccan prison camps were to live to tell the tale, the Commission must appoint a committee of inquiry as a matter of urgency. In the light of the evidence it had just heard, the Commission must surely agree that Morocco was not fit to take part in the forthcoming World Conference on Human Rights.

35. Mr. SEIXAS (International Federation of Christians for Action on the Abolition of Torture), an East Timorese nurse, recounted how in 1980 he had been arrested by Indonesian forces occupying East Timor, tortured and kept in solitary confinement for three months before being released and seconded to work for the Indonesian medical authorities. In 1982 he had been re-arrested and, having been subjected to further cruel and degrading treatment, had survived an attempt by the security forces to drown him. The following year he had been transferred to a prison on Bali, where the military had tortured him in an attempt to coerce him into making a false confession. After a trial that had been a travesty of justice, he had been sentenced to 15 years' imprisonment for allegedly attending clandestine meetings of the East Timorese resistance.

36. He expected neither compensation for the ill-treatment and injustice he had suffered, nor punishment of those responsible. He wished, however, to draw attention to the plight of the many other political prisoners who continued to languish in East Timor's prisons, especially since the capture of resistance leader Xanana Gusmão. He appealed to the Commission to ensure that his brothers, Florindo dos Santos, Alberto Seixas, David Correia Seixas and Ildefonso Seixas, were not subjected to reprisals by the Indonesian authorities as a result of his testimony; and called for concrete measures to put an end to the violations of human rights that had been a daily occurrence in East Timor since Indonesia's invasion of the country 17 years previously.

37. Mr. REZA ESHAGHI (International Falcon Movement - Socialist Educational International) said that recent declarations by the Tehran authorities showed that universally recognized norms and criteria were now flouted as never before by the Iranian judicial system. If, as Supreme Leader of the Islamic Revolution Ayatollah Ali Khamenei had stated in a broadcast on 16 December 1992, the Iranian regime regarded the declarations of United Nations bodies and international committees simply as "lies and trickery", why did it choose the Commission as a forum in which to lecture others on human rights?

38. Under the system of velayat faghih (guidance by the clergy), the entire judicial system was dominated by the will of the mullahs in power. Ayatollah Khomeini had himself declared that, even if the entire population were to dissent from his opinion, it was his own opinion that would prevail. The religious convictions of Iranians were being manipulated in order to justify a corrupt judicial system. Thus, article 198 of the Penal Code, which provided for the death penalty for all sympathizers with opposition groups, whether or not actively involved in those groups, was used to justify the sending of death squads to assassinate opponents in other countries, as in the recent cases of Kazem Rajavi and Ali Akbar Ghorbani, abducted and murdered in Switzerland and Turkey.

39. The Iranian regime did not recognize the principle of legality of the offence and the punishment: rulings could be based on the views expressed by mullahs rather than on legal texts and internationally recognized principles. Article 102 of the Penal Code, for instance, provided that persons performing an act "not punishable by law but offending against public modesty" should be sentenced to 74 strokes of the lash.

40. Furthermore, the regime did not recognize the principle of the primacy of international over domestic law within signatory States. The Head of the Judiciary had officially stated that the Islamic Republic of Iran adhered to the Universal Declaration of Human Rights only "partially" and "with reservations".

41. The creation of special revolutionary, military, ecclesiastical and other courts violated the principle of equality of citizens before the law, especially since the powers of those courts were unduly broad, and since their proceedings were usually summary and took place in camera or on prison premises.

42. Appeal against judgements was permitted only in exceptional circumstances. The decisions of religious judges were regarded as a divine sentence, and thus as irrevocable. That state of affairs was all the more alarming in view of the fact that the entire proceedings, from arrest to execution, often took less than 24 hours. The right of the accused to be represented or assisted by a qualified lawyer had in any case been ignored by the regime for many years, a fact to which attention was drawn in paragraph 126 of Mr. Pohl's report (E/CN.4/1993/41).

43. In such circumstances, it was easy to see why the situation of human rights in Iranian prisons had become intolerable. The time had come for the international community, and the Commission, to take a firm line with the Iranian regime.

44. Ms. MUNRO (National Aboriginal and Islander Legal Services Secretariat) recounted the experience of one young East Timorese man who, at the age of six, had seen his father shot in cold blood and had himself been crippled for life by occupying Indonesian troops. All his brothers had since died at the hands of the Indonesian military. That one case exemplified many thousands of similar cases in East Timor.

45. The testimony of another East Timorese youth described how he had been constantly persecuted since the massacre of 12 November 1991 and had been arrested by armed soldiers and intelligence forces in Dili in September 1992. He had subsequently been tortured, left for two days without food, then accused of being the leader of a clandestine group. He had been permanently scarred and disabled by the torture inflicted on him during attempts to extract a false confession from him. He had subsequently escaped from prison and was now living in Jakarta; the whereabouts of his brother and other students arrested at the same time were still unknown.

46. It was also common practice for Indonesian troops to persecute the families of any East Timorese detained and imprisoned. It was estimated that, during the first three weeks of the Commission's current session, over 1,000 people had been interrogated, tortured and finally released by Indonesian

troops in East Timor. Short-term detention and torture was a tactic frequently employed as a method of terrorizing the population into accepting Indonesian rule. As participants attended the session in comfort and safety, people in East Timor were screaming in pain from obscene tortures. Reports of widespread torture had been confirmed the previous week by the Bishop of Dili in an interview with the Portuguese press.

47. It was estimated that one third of the total population of East Timor had died in the 17 years since the Indonesian invasion and annexation of their country. The people of East Timor had kept the flame of justice and hope alive, supported by the knowledge that since 1975 the General Assembly had passed no fewer than eight resolutions deploring and condemning that invasion, and that the Security Council had adopted two resolutions calling for an end to the bloodshed. They believed that the Commission would ensure that they were able to exercise their inalienable right to self-determination. Was that a false hope, a false belief? The people of East Timor put their lives in the hands of the United Nations, hoping that the renewal of the talks would put an end to the decimation of the population and allow them to live in peace and without fear.

48. Mr. MOTTAGHI-NEJAD (Islamic Republic of Iran) said that during the debate on item 10, the representative of Canada had quoted Canada's Secretary of State for External Affairs as saying that Salman Rushdie had become a symbol of the universal right to freedom of expression.

49. His Government's position on the matter was clear, and rather than repeat it, he would simply refer to the statement by the Deputy President for Legal and Parliamentary Affairs of Iran to the Commission on 17 February. He would like to add, however, that as much as Canada or others might regard Salman Rushdie as a symbol of freedom of expression, the 1 billion Muslims across the globe found in him a symbol of an organized antagonistic move of the West towards Muslims and the most sacred pillars of their faith.

50. No religion allowed profanity towards religion. Any country was free to choose its champions and heroes - indeed, they might even choose evil as their archetype - but they must not attempt to impose it on others. Salman Rushdie had insulted the deepest sentiments and beliefs of the Muslim nations, and his act had resulted in the loss of life of hundreds of people. To Muslims, the prophets of God and their revelations were holy, and what was against them was indeed satanic and symbolized evil.

51. Mr. MAJUSH (Bangladesh), said that the statement made on behalf of the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities at the 35th meeting had been a tissue of false and malicious allegations against Bangladesh. The speaker, who was not a Bangladeshi although he claimed to be one, had revealed his ignorance of the fact that the Commission was fully aware of the terrorist activities of some members of one tribe, who were based outside Bangladesh. The other 12 tribes and the majority of that particular tribe were living peacefully in the three Hill districts of Bangladesh and participating in political activities at the national level through three members of Parliament elected by them.

52. The absurdity of the allegations was confirmed by the statistics given in the statement. It was claimed that 200,000 tribals had been killed in the fighting, whereas the total population of all 13 tribes was only 400,000. It was interesting to note that non-violent champions of human rights had declared a unilateral cease-fire.

53. A judicial inquiry had been conducted to ascertain the facts in the Logang incident. The report of the inquiry commission had been made public and a copy sent to the Centre for Human Rights; it was covered in the report of the Special Rapporteur (E/CN.4/1993/46).

54. There was an ongoing problem of terrorist activities in the northern part of the three Hill districts. The Government of Prime Minister Khaleda Zia was seeking a negotiated settlement according to the democratic policy of Bangladesh. A committee consisting of members of Parliament, headed by a cabinet minister, and including the three members from the Hill districts, was conducting the negotiations. He was happy to inform the Commission that encouraging progress had been made in the negotiations so far.

55. Mr. OGLY (Observer for Azerbaijan), said, with reference to the statement made by Human Rights Advocates (HRA) at the 35th meeting, that if a number of Armenian families were claimed by HRA to have been taken hostage, the list of names of the many hundreds of Azerbaijanis who had suffered a parallel fate in Nagorny-Karabakh or elsewhere on the borders between the two countries would take far too long to read to the Commission. Citing just one example, he said that as a result of the incursion by Armenian troops in the Kelbadzhar region of Azerbaijan in December 1992, killing 46 people, 27 villagers had been taken hostage and had disappeared.

56. Documents in the possession of the State Commission on the Problem of Hostages and the Prisoners of War testified to the massive scale of the hostage-taking by the Armenian armed forces and to the odious practice of exchanging them for fuel and even weapons. Azerbaijanis were taken into forced labour in Armenia, where they were set to work in Spitak, clearing rubble from the earthquake, or in the goldmines. Eyewitness reports by Russian members of Helsinki Watch - the only non-governmental organization to have concerned itself with the matter - had recently been published in the Moscow newspaper Rabochaya Tribuna. According to other information circulating in Armenia, hostages and prisoners of war were treated as dollar-value commodities in the illegal trade in human organs and blood plasma, while young women among them had been forced into prostitution. Such violations of human rights were quite incompatible with the standards of civilized behaviour. The Commission could not, in all conscience, remain blind to the situation, and should send representatives to both Armenia and Azerbaijan to make a detailed investigation. His own country was, for its part, willing to provide all the necessary information. He concluded by stating that at the beginning of the current month, the President of the Azerbaijan Republic had set before Parliament for ratification the Geneva Conventions of 1949. Human Rights Advocates would do well to use all the means at its disposal in bringing public opinion to bear on Armenia and persuade it to take similar action.

57. Mr. YOUSIF (Sudan), said that since it had begun to participate in Commission activities, the Arab Lawyers Union had invariably criticized the Sudan, attempting to sow the seeds of doubt by its allegations of human rights violations. The Union's representative had been the Minister for Foreign Affairs in the Nuweiri regime, which had been responsible for flagrant human rights violations, including massacres and assassinations; it was surprising to see him now defending human rights in the Sudan. He wondered whether the Arab Lawyers Union agreed that human rights violations also took place in other countries or whether it had a mandate to talk only of the Sudan. Its representative had been seen encouraging members of the Sudanese opposition to resort to violence and his biased statement had been nothing more than an attempt to distort the image of the Sudan. That was not the type of role that the Arab Lawyers Union should be playing. Rather than constantly criticize the Sudan, its representative should return to the country to help his brothers build a new society through a constructive dialogue. On the specific points raised, he referred the representative of the Arab Lawyers Union to the statement to the Commission by the Minister of Justice of the Sudan.

58. Mrs. FERRIOL ECHEVERRIA (Cuba), said that the statements by the representatives of the International Association of Educators for World Peace and the International Immigrants Foundation at the 35th meeting had been nothing more than photocopies of anti-Cuban statements read out before the Commission in previous years. One speaker, referring to his statement four years earlier, had forgotten to add that he had been called to order on that occasion for failing to respect the rules of behaviour prevailing in United Nations forums, and another had forgotten to mention the sophisticated medical treatment which he had received free of charge during his detention.

59. Cowardice was a word permanently eliminated from the vocabulary of the Cuban people. Courage, dignity and the pride to defend its achievements, in particular its independence and sovereignty, were sacred values that the Cuban people had defended and would continue to defend at any cost and wherever necessary. As Commander-in-Chief Fidel Castro had recently stated, the Cuban people was heroically waging a great struggle for the survival of its most cherished values. Confronting the world's most powerful empire, it was writing the bravest and most glorious page of history ever written by any people.

60. Mr. MICHAEL (Observer for Ethiopia), said that the student demonstration of 4 January 1993, referred to by the representative of World University Service, earlier in the meeting, had been illegal, as it had contravened the provisions of the Proclamation on peaceful demonstration and assembly. In addition to that breach of law, according to police reports some of the students had been armed and had deliberately sought confrontation with the security forces in order to hold the Government responsible. The Government had issued more than one statement explaining its position on the incident; according to its statistics one student had been killed and 13 injured. Three policemen had also been injured in the incident. As for the allegations of detention without charge, the university administration itself had said that the students arrested had been immediately released.

61. Peaceful demonstrations were fully guaranteed under Ethiopian legislation, and a number of them had been held since the new Government had come into power in May 1991. All Ethiopian citizens had the right to express

differing opinions and beliefs without fear of any sort. He hoped those facts would enable the World University Service to correct its groundless and one-sided position.

62. Mr. AIZAWA (Japan) said that his delegation would like to comment on remarks by International Educational Development concerning the conduct of the Japanese army during the Second World War. Its position on that matter was the same as that expressed in its right of reply concerning agenda item 19. He would like to add, however, that according to its Charter, it was not the role of the United Nations to solve problems that had occurred before its time. Furthermore, the mandate of the Sub-Commission Special Rapporteur on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms was to submit conclusions and recommendations with a view to developing principles and guidelines. It was therefore outside the Special Rapporteur's mandate to receive individual claims. Regarding the procedural aspect, his Government's position coincided with that of Sub-Commission decision 91/104, i.e. that the procedure governed by Economic and Social Council resolution 1503 (XLVIII) could not be applied as a reparation or relief mechanism in respect of claims of compensation for losses which had occurred during the Second World War.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS (agenda item 11) (continued) (E/CN.4/1993/29-35).

63. Mr. HELLER (Mexico) said that the build-up of human rights problems in Mexico over the years had required determined and energetic intervention by the Executive. One such response had been the establishment, on 6 June 1990, of the National Human Rights Commission. Although some had doubted its effectiveness at first, the Human Rights Commission had been steadily gaining the confidence of the people through the reliable results it was obtaining.

64. The National Commission, which was in fact an Ombudsman, was a fully autonomous body, technical rather than political, which had constitutionally established powers and limits; it received sufficient economic resources and was strongly supported by the Executive. In January 1992, it had been elevated to constitutional rank and provided with 32 State human rights commissions, i.e. one in every federative entity and one in the Federal District. Eighteen of those local bodies were currently functioning regularly. The establishment of a system for the protection of human rights outside the Mexican court system complemented and enhanced the traditional systems of judicial protection contained in the Mexican legal order, among which the remedy of amparo (enforcement of constitutional rights) was undoubtedly the most important.

65. The National Commission dealt with complaints of alleged violations of human rights and issued decisions for redressing them, compensating the victims and determining those responsible. In addition, it had the task of expanding and strengthening national awareness of human rights. Its primary objective was to make all public servants aware that their first duty as such was precisely to respect the human rights of the governed and to make the governed aware that they must not hesitate to file a complaint when the authorities violated their rights.

66. Through December 1992, the Commission had received 15,644 complaints of alleged violations of human rights and, in two and a half years, had dealt with 76 per cent of them. Nearly 50 per cent of the complaints received had not involved human rights violations but legal problems of various types, concerning which the National Commission had provided legal assistance. In two and a half years of work, the National Commission had issued 412 recommendations which had been sent to 473 authorities, both federal, State and municipal. The categories of violations covered included problems in prisons, defects in the coordination of preliminary investigations, illegal detentions, torture, failure to comply with the requirement of an arrest warrant, injuries to journalists, indigenous matters, disappearances and ecological problems. Of the 412 recommendations, 160 had been fully complied with and 228 partially complied with.

67. When the National Commission had begun work in June 1990, one of the main problems it had had to face was the high number of complaints of torture. Although such complaints continued to be received, they had decreased considerably from 13.4 per cent of the total to 2.9 per cent. Currently the three main types of violations alleged were delay in the administration of justice, arbitrary detention and abuse of authority. In addition to recommendations, the National Commission also issued documents indicating non-responsibility when it was found that there had been no violation. In two and a half years, the National Commission had issued 177 such documents.

68. Regarding the long-standing unclarified cases of disappearance repeatedly denounced by the United Nations and international and national non-governmental organizations, the National Commission had been able to resolve 62 cases. In 37 cases the persons alleged to have disappeared had been found alive, in 18 cases the persons had died and in seven cases the relatives or friends had dropped the investigation. The most recent report of the Working Group on Enforced or Involuntary Disappearances indicated that there had been no cases of disappearance in 1992.

69. The National Commission had been expeditious in investigating and resolving specific complaints of human rights violations. When it identified patterns of violations, it conducted studies that were used to develop new laws and legislative reforms, such as the new Federal Act relating to the Prevention and Punishment of Torture and the reforms of the Penal Code and Code of Criminal Procedure. It had published general studies on the situation of Mexican migrant workers and on several indigenous areas in the country and over 180 works on various subjects; conducted 346 training courses for civil servants, individuals and groups; organized 52 academic events, prepared studies for the revision of a free textbook on human rights, and established a

library and documentation centre. Its activities also included radio and television programmes, film series and publication of human rights materials in national periodicals.

70. The National Commission had established a specific programme for tackling problems in the country's prisons, issuing 111 recommendations and publishing handbooks and pamphlets for prisoners and their visitors.

71. In the struggle against impunity, the National Commission had achieved significant results. Thanks to its intervention 723 officials had incurred disciplinary measures. Of those, 308 were being prosecuted for human rights violations, 144 more were being investigated by Federal prosecutors and State bodies and 73 had been dismissed.

72. Mr. KOSSENKO (Russian Federation) addressed some of the new aspects of international cooperation in the field of human rights. The Russian Federation welcomed the increasing recognition, both within and outside the United Nations, of the fundamental importance of national institutions for the promotion and protection of human rights in the construction of States based on the rule of law; as a neophyte in the matter, it was interested in learning about the experience of other countries. The Centre for Human Rights could play a significant coordinating role in that connection by convening meetings between national institutions, and the forthcoming World Conference on Human Rights would be an occasion for useful contacts. Wider dissemination of the Principles relating to the status of national institutions was called for. The subject of such institutions should be included as a separate item in the agenda of the next session of the Commission.

73. Internal displacement, now believed to affect more than 20 million people, was another matter of immediate and grave concern, and the Russian Federation had attentively studied the commendable report and very pertinent recommendations by the Representative of the Secretary-General as contained in document E/CN.4/1993/35, part II. The fact that there were no clear and universally recognized criteria for determining the status and rights of internally displaced persons, particularly women and children, was a serious handicap in the organization of large-scale humanitarian aid through United Nations channels.

74. The Commission on Human Rights could and should become a laboratory for the development of legal standards that would regulate and guarantee the fundamental rights of those subjected to mass exoduses and other situations of crisis or emergency. Mr. Deng's study might serve as the basis for further consideration of the matter, perhaps by a sessional working group in the course of the Commission's next session. The Centre for Human Rights and UNHCR might consider organizing a workshop for interested intergovernmental and non-governmental organizations.

75. Familiarization with, and the widest possible dissemination of, information were among the most effective means of promoting human rights, and in that connection, the Russian Federation had from the outset been a firm supporter of the World Public Information Campaign, believing that it should assume a long-term and consistent character and be backed by adequate funds and human resources. At the same time, the Centre for Human Rights, whose

work in liaison with the Department of Public Information (DPI) deserved high praise, might be invited to prepare an outline model programme for the teaching and promotion of human rights at the national level.

76. Mr. THOMSON (Australia), called attention to the effect on individual and social behaviour, the consequences for human rights and the implications for public health of discrimination in the context of the HIV/AIDS pandemic.

77. Recalling with satisfaction the efforts made by a number of international bodies, notably the Centre for Human Rights, the Committee on the Elimination of Discrimination against Women, the Commission on Human Rights, the Commission for Social Development and the International Labour Organisation, he said that Australia was strongly committed to ensuring the full enjoyment of civil, political, economic, social and cultural rights by people suffering from HIV or AIDS, which were legally defined in the country as "disabilities" and "impairment", and to the prohibition of discrimination in key areas of public life, such as employment, accommodation and the provision of goods and services.

78. Australia's initiatives in containing and preventing the spread of HIV/AIDS had been recognized as being at the forefront of world efforts in that area, and the annual rate of new HIV infection had fallen dramatically. HIV/AIDS did not figure prominently in the Commission's agenda, but nevertheless deserved greater attention and a higher priority. Continued and stronger focus on the subject, both by the relevant treaty bodies and by the Commission itself, was highly desirable, not only for the promotion of people's health, but also for the safeguarding of their fundamental human rights.

79. Ms. MARCOULIS (Cyprus) drew attention to the difficulties created by the absence of special international bodies or machinery to protect and assist the millions of internally displaced persons who, because they did not cross national borders, could not be recognized as refugees under the 1951 Convention and 1967 Protocol relating to the Status of Refugees.

80. The findings and recommendations by the Representative of the Secretary-General, which Cyprus fully endorsed, marked an important step in the development of a strategy for dealing with the problems of those persons and of an adequate response to what had become a global crisis. Cyprus, whose tragic experience in the matter she recapitulated, had willingly cooperated in Mr. Deng's inquiry.

81. Internal displacement on a massive scale, was invariably accompanied by massive violations of the human rights and fundamental freedoms enshrined in the International Bill of Rights. Underlining the link that existed between human rights principles and the principles that governed the protection of refugees or displaced persons, she commended the untiring efforts made over the years by UNHCR and called for an expansion of its collaboration with human rights bodies at the international and regional levels. Cyprus had on several occasions had recourse to the human rights machinery at those levels in connection with the violations inflicted on persons displaced within the country as a result of the 1974 invasion. A number of important decisions, conclusions and resolutions had been adopted by the bodies addressed, the goal being full restoration of the rights of the persons concerned.

82. Despite the difficulties of delivery that were sometimes caused by ongoing military operations, the international community should make humanitarian aid immediately available to help Governments and the victims themselves to cope with the consequences of internal displacement; the United Nations in particular should enhance its ability to respond speedily and effectively to emergencies.

83. Prevention, through the peaceful settlement of the disputes that gave rise to internal displacement, called for international action and cooperation within the framework of the Charter of the United Nations; at the same time, all Members of the United Nations should become parties to, and accept the commitments embodied in, all existing human rights instruments. She further recalled that the group of governmental experts established in 1981 to study ways and means of averting new flows of refugees had concluded in its report that the effectiveness of the efforts of the United Nations system in that connection was seriously diminished by failure to observe the principles of international law, by the fact that many decisions of the Security Council were not being respected and implemented and by the lack of respect for resolutions of the General Assembly.

84. In the post-cold-war era, a new standard of intolerance where human tragedy and human atrocities were concerned had taken hold, although it would not immediately translate into humanitarian intervention in all cases. Significant steps had been taken to heighten the consciousness of nations regarding the plight of peoples within sovereign borders, and she welcomed the new commitment - expressed in both moral and legal terms - to alleviate the suffering of millions of displaced persons and offer assistance and protection to the innocent victims of atrocities.

The meeting rose at 9.55 p.m.